

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

FILED
U.S. CLERK'S OFFICE

TOUCHPOINT SOLUTIONS, INC.,
Plaintiff,

v.

EASTMAN KODAK COMPANY,
Defendant.

2004 SEP 22 A 11:53

U.S. DISTRICT COURT
DISTRICT OF MASS.

Civil Action No. 04-11014-NMG

**MOTION TO SEAL AND IMPOUND PLAINTIFF TOUCHPOINT SOLUTIONS, INC.'S
MEMORANDUM IN SUPPORT OF APPLICATION FOR
PRELIMINARY INJUNCTIVE RELIEF AND ALL SUPPORTING DOCUMENTS**

Pursuant to Local Rule 7.2 of the Federal Rules of Civil Procedure, Plaintiff TouchPoint Solutions, Inc. ("TouchPoint") respectfully moves that this Court seal and impound the accompanying Memorandum in Support of Preliminary Injunctive Relief as well as the following supporting documents and all attached exhibits:

1. Affidavit of Anila Jobanputra, and corresponding exhibits;
2. Affidavit of Asad Jobanputra;
3. Affidavit of Bevan Hayes;
4. Affidavit of Geri L. Haight, Esq., and corresponding exhibits; and
5. Affidavit of Philip Catanzano, Esq.

TouchPoint seeks an impoundment order because the Memorandum in Support of Preliminary Injunctive Relief and the supporting affidavits and documents refer to, quote from, and/or contain documents that have been designated by both parties as "Confidential" or "Highly Confidential" as defined by the parties' protective order/confidentiality agreement dated August 31, 2004. These documents provide information necessary for the Court's full consideration of the issues raised in TouchPoint's Memorandum in Support of Preliminary Injunctive Relief.

Therefore, in order to present its arguments in support of its Application for Preliminary Injunction filed with this Court on August 13, 2004, and to preserve the parties' designations of confidentiality, TouchPoint respectfully requests that an impoundment order be entered so that TouchPoint may submit its Memorandum in Support of Preliminary Injunctive Relief for a ruling by this Court.

WHEREFORE, TouchPoint respectfully requests that the Court impound and seal the following documents: (1) Plaintiff's Memorandum in Support of Preliminary Injunctive Relief, (2) the Affidavit of Anila Jobanputra and corresponding exhibits, (3) the Affidavit of Asad Jobanputra, (4) the Affidavit of Bevan Hayes, (5) the Affidavit of Geri L. Haight, Esq., and corresponding exhibits and (6) the Affidavit of Philip Catanzano, Esq., until such time as the Court rules and enters an Order on the Motion to Compel. At such time, TouchPoint respectfully requests that the Court notify counsel and allow them to retrieve the impounded documents from the Court's files.

Respectfully submitted,

TOUCHPOINT SOLUTIONS, INC.,

By its attorneys,


H. Joseph Hameline, BBO# 218710
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Mintz, Levin, Cohn, Ferris
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Dated: September 21, 2004

I hereby certify that a true copy of the above document was served upon the attorney of record for each party by mail/hand on Sept 21, 2004

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

TOUCHPOINT SOLUTIONS, INC.,
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v.

EASTMAN KODAK COMPANY,
Defendant.

**CONFIDENTIAL – SUBJECT
TO PROTECTIVE ORDER**

Civil Action No. 04-11014-NMG

[PROPOSED] ORDER OF IMPOUNDMENT

AND NOW, this 20th day of September, 2004, upon consideration of Plaintiff's Motion to Seal and Impound its Memorandum in Support of Preliminary Injunctive Relief and All Supporting Papers, IT IS HEREBY ORDERED that Plaintiff TouchPoint Solutions, Inc. may file the following documents under seal:

1. Memorandum in Support of Preliminary Injunctive Relief;
2. Affidavit of Anila Jobanputra;
3. Affidavit of Asad Jobanputra;
4. Affidavit of Bevan Hayes;
5. Affidavit of Geri L. Haight; and
6. Affidavit of Philip Catanzano.

Such documents shall be impounded until the Court rules and enters an Order on the Motion for Preliminary Injunctive Relief. At such time, the parties may retrieve the impounded documents from the Court's files.

SO ORDERED

The Honorable Nathaniel M. Gorton
United States District Judge